REMARKS

It is believed that the foregoing amendments correct all the informalities and objections noted by the Examiner in Sections 1 – 15 of the Official Action.

With respect to Sections 16 and 17, Claim 1 has been amended in order to more clearly define the present invention and to more sharply distinguish it over Burdette et al. Thus, Claim 1 has been amended to set forth that the probe is formed with an open cavity, and that the tissue examined is that within the cavity. The fringe field used for examining the tissue is accordingly a confined electrical fringe field, confined to that within the open cavity of the probe. That is, the confined electrical fringe field interacts with examined tissue within the probe and produces a reflected electrical pulse therefrom with negligible radiation penetrating into other tissues or biological bodies near the examined tissue. In Burdette's construction, however, the fringe field is not confined and exists only outside the tip of the probe.

The novel construction defined in amended Claim 1 allows better characterization of the examined tissue volume, and improves the measurement results. It is submitted, therefore, that Claim 1 as now amended is clearly allowable over Burdette.

Claims 2 – 5, previously indicated as allowable, all depend from Claim 1 and are therefore believed allowable with that claim for the same reasons, apart from the further features set forth in the respective dependent claims.

Claim 6, also previously indicated as allowable, has been amended to correct the informalities noted by the Examiner. It is therefore believed that Claim 6 as now amended is also now allowable.

Claims 7 – 20, also previously indicated as allowable, all depend from Claim 6, and are therefore believed allowable with that claim, apart from the further features set forth in the respective dependent claims.

Claim 21 was rejected as being unpatentable over Chan et al U.S. Patent 5,744,971 in view of Berube U.S. Patent 6,287,302. Favorable reconsideration of this rejection is respectfully requested.

The primary reference, Chan et al., appears to be no more pertinent to the present invention than the above-discussed Burdette publication, or the prior art acknowledged in the present application with respect to Figs. 1 – 3. The secondary reference, Berube, relates to a device, not for measuring dielectric properties as the primary reference and as in the present application, but rather to a device for firing microwaves for ablation. Thus, as set forth in the last few lines of the Abstract, the inner and outer conductors in the device of Berube cooperate "to emit an electromagnetic field sufficiently strong to cause tissue ablation in a direction generally away from the flared interior wall of the outer conductor.". One skilled in the art would have hardly been motivated by the ablation method of Berube to make the suggested modification in the tissue characterization method of Chan et al.

Moreover, the Berube construction does not disclose an open cavity for receiving tissue. Rather, the space between the inner and outer conductors is filled with dielectric material, as clearly shown in the drawings and as clearly described in the specification (e.g., column 7, lines 44 – 62). Accordingly, even if one skilled in the art would have been motivated to make the modifications suggested by the Examiner (which is hardly likely for reasons set forth above), the resulting structure would not be an anticipation of Claim 21.

For the foregoing reasons, it is submitted that Claim 21 is clearly allowable over this combination of references.

The remaining Claims 22 – 38 all depend from Claim 1, and are therefore submitted to be allowable with that claim, apart from the further features set forth.

In view of the foregoing, it is believed this application is now in condition for allowance, and an early Notice of Allowance is respectfully requested.

Respectfully submitted,

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